OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

ROBERT T. POUS
(703) 413-3000
RPOUS@OBLON.COM

Docket No.: 217206US3PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 09/926,811
Applicants: Yoshihiko FUNAKOSHI, et al.
Filing Date: July 1, 2002
For: RADIOACTIVE SUBSTANCE CONTAINMENT VESSEL, AND RADIOACTIVE SUBSTANCE CONTAINMENT VESSEL PRODUCING DEVICE AND PRODUCING METHOD
Group Art Unit: 2881
Examiner: VANORE, D.

SIR:

Attached hereto for filing are the following papers:

RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of **$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Registration No. 25,599

Robert T. Pous
Registration No. 29,099
James D. Hamilton
Registration No. 28,421

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)
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DOCKET NO: 217206US3PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
YOSHIHIKO FUNAKOSHI, ET AL.	: EXAMINER: VANORE, D.
SERIAL NO: 09/926,811	:
FILED: JULY 1, 2002	: GROUP ART UNIT: 2881
FOR: RADIOACTIVE SUBSTANCE CONTAINMENT VESSEL, AND RADIOACTIVE SUBSTANCE CONTAINMENT VESSEL PRODUCING DEVICE AND PRODUCING METHOD	:

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated September 13, 2005, Applicants provisionally elect with traverse Group 1, Claims 59-87 and 106-117, directed to a container. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

Applicants respectfully traverse the Restriction Requirement on at least two grounds. First, a Restriction Requirement was already issued on November 4, 2204, constructively indicating to Applicants that after the election response filed on December 3, 2004, Claims 59-87 and 96-251 in Group I would be examined. Secondly, Applicants traverse the requirement on the grounds that the proper standard was incorrectly applied.

Applicants appreciated the telephonic conversations with Examiners David A. Vanore and John R. Lee to discuss the fact that the previously issued Restriction Requirement

constructively indicated to Applicants that Claims 59-87 and 96-251 would be examined. As such, Applicants respectively request that the present restriction be withdrawn and those claims examined.

Applicants respectfully brings to the attention of the Office that "The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity."[1] As such, Applicants respectfully submit that the outstanding additional restriction requirement has unnecessarily delayed the prosecution process of this application and added to Applicants' cost needlessly.

As to the second basis for the traverse, as noted in the outstanding Office Action, the present application is a national stage application filed under 35 U.S.C. § 371 so that the "Unity of Invention" standard applies as opposed to the Restriction standard. In particular, the Restriction Requirement fails to provide evidence that there is no technical relationship among Group I, II, III, and IV that involves at least one common or corresponding special technical feature.

In the outstanding Office Action it was asserted that the inventions listed in Groups I, II, III, and IV do not relate to a single general inventive concept because they do not share a method step of pushing a boring bunch into a metal billet and bending a plane on a billet towards an inner wall. However, such a statement of conclusion does not carry the Office's burden in establishing a prima facie case for a restriction requirement for the case at hand, as further explained below.

MPEP § 1893.03(d) requires that, when making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why

[1] MPEP § 706.

each group lacks unity with each other group (i.e., why there is no single general inventive concept) ***specifically describing the unique special technical feature in each group***. Thus, the assertion made by the office that one step recited in Claim 122 is not found in the other claims is insufficient. Take, for example and not as a limitation, the fact that all independent claims refer to the hot dilation of a metal billet. "A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature."[2] "The determination regarding unity of invention should be made without regard to whether a group of inventions is claimed in separate claims or as alternatives within a single claim. The basic criteria for unity of invention are the same, regardless of the manner in which applicant chooses to draft a claim or claims."[3]

In addition, the outstanding Office Action indicated that the previously filed response to the previously issued Restriction Requirement was treated as being made without traverse even though Applicants expressly stated that the election was made with traverse based on the fact that no undue burden would be imposed in the Office for the examination of all pending claims.

[2] MPEP § 1893.03(d).

[3] *Id.*

Accordingly, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 59-251 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Registration No. 25,599

Robert T. Pous
Attorneys of Record
Registration No. 29,099

James D. Hamilton
Registration No. 28,421

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

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